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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIA CEJA,
Plaintiff,

v.

THE VONS COMPANIES, INC., et al.,
Defendants.

Case No. 2:21-cv-00614-CDS-NJK

ORDER IMPOSING SANCTIONS

On February 28, 2022, this Court issued an order setting a settlement conference for April 21, 2022. Docket No. 18. That order outlined the requirements for attending the settlement conference, including that any non-individual party was required to have present “an officer or representative with binding authority to settle this matter up to the full amount of the claim or last demand made.” *Id.* at 2. After the Court and the parties had already spent two hours engaged in the settlement conference, it became clear that Defendant’s counsel failed to comply with this order and, instead, arranged for the attendance of a defense representative with a predetermined settlement authority below the full amount of the claim. Following the settlement conference, the Court issued an order to show cause requiring Defendant and defense counsel to show cause as to why they should not be sanctioned for this behavior. Docket No. 24. Now before the Court is Defendant’s response to the Court’s order to show cause. Docket No. 27. For the reasons discussed more fully below, the Court hereby **SANCTIONS** Defendant and Mr. Guzik.

I. STANDARDS

Litigants are required to follow Court orders. Federal Rule of Civil Procedure 16(f) provides that the Court may order any “just” sanctions, including those outlined in Federal Rule of Civil Procedure 37(b)((2)(A)(ii)-(vii), if a party or its attorney fails to obey a pretrial order or is substantially unprepared to participate in a pretrial conference. Violations of Federal Rule 16 are neither technical nor trivial. *Martin Family Trust v. Heco/Nostalgia Enterps. Co.*, 186 F.R.D.

6011, 603 (E.D. Cal. 1999). It is clear that “the rule is broadly remedial and its purpose is to encourage forceful judicial management.” *Sherman v. United States*, 801 F.2d 1133, 1135 (9th Cir. 1986). As the Ninth Circuit has emphasized, a pretrial order “is not a frivolous piece of paper, idly entered, which can be disregarded . . . without peril.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992).

Litigants have an “unflagging duty to comply with clearly communicated case-management orders. . . .” *Martin Family Trust*, 186 F.R.D. at 604 (citations omitted). Whether the party and/or its counsel disobeyed the court order intentionally is impertinent; sanctions may be imposed when the parties and their counsel disobeyed a court order. *See Lucas Auto. Eng’g, Inc. v. Bridgestone/Firestone, Inc.*, 275 F.3d 762, 769 (9th Cir. 2001). Both courts and commentators agree that sanctions can be imposed for a party’s unexcused failure to comply with a Rule 16 order, even if that failure was not made in bad faith. *See, e.g., Ayers v. City of Richmond*, 895 F.2d 1267, 1270 (9th Cir. 1990); *Harrel v. United States*, 117 F.R.D. 86, 88 (E.D.N.C. 1987); 6A Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1531 (1990) (“The fact that a pretrial order was violated is sufficient to allow some sanction”).

Federal Rule 16(f) applies to all pretrial orders, including court-mandated settlement conferences. *See, e.g., Pittman v. Brinker Int’l, Inc.*, 216 F.R.D. 481, 483 (D. Ariz. 2003), *amended on review on other grounds*, 2003 WL 23353478 (D. Ariz. 2003). Indeed, the Ninth Circuit has repeatedly upheld sanctions imposed for failing to comply with orders regarding settlement conferences. *See, e.g., Lucas Auto.*, 275 F.3d at 769; *Official Airline Guides, Inc. v. Goss*, 6 F.3d 1385, 1396 (9th Cir. 1993); *Ayers v. City of Richmond*, 895 F.2d at 1270. *See also Wilson v. KRD Trucking W.*, 2013 WL 836995, at *5 (D. Nev. Mar. 6, 2013). Similar to Federal Rule 16(f), this Court’s Local Rules also provide the Court with authority to impose “any and all appropriate sanctions on an attorney or party who . . . [f]ails to comply with any order of this Court.” LR IA 11-8.

II. FACTUAL BACKGROUND

Court-ordered settlement conferences provide an important vehicle for the parties to attempt to resolve their dispute short of trial. The Court expends significant time preparing for

1 and conducting them and takes them very seriously. Settlement conferences are not meaningful
 2 absent attendance by those with full settlement authority. *E.g., Nick v. Morgan's Food, Inc.*, 270
 3 F.3d 590, 597 (8th Cir. 2001) (attendance at a mediation with a corporate representative with
 4 limited authority “is to in effect negate the ability of that mediation to in any way function, much
 5 less be successful”). To that end, the Court’s settlement conference order set forth attendance
 6 requirements and, for non-individual parties, required the presence of “an officer or representative
 7 with binding authority to settle this matter up to the full amount of the claim or last demand.”
 8 Docket No. 18 at 2. Furthermore, the Court’s order was clear, even emphatic that “**FAILURE**
 9 **TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ORDER WILL**
 10 **SUBJECT THE NON-COMPLIANT PARTY AND/OR COUNSEL TO SANCTIONS**
 11 **UNDER FEDERAL RULE OF CIVIL PROCEDURE 16(f).**” *Id.* at 4 (emphasis in original).

12 Mr. Guzik and Defendant failed to comply with this requirement, appearing at the
 13 settlement conference with a defense representative who lacked full settlement authority. Instead,
 14 Mr. Guzik appeared with Betty Hanger, a representative with settlement authority only up to
 15 \$200,000. *See, e.g.,* Docket No. 23. When it became clear at the settlement conference that Ms.
 16 Hanger had limited settlement authority, the Court inquired as to why Mr. Guzik failed to appear
 17 with a representative with proper settlement authority. Mr. Guzik indicated that Defendant had
 18 determined its valuation of the claims prior to the settlement conference and that Ms. Hanger had
 19 settlement authority consistent with its valuation of the claim. *See* Docket No. 27 at 3. The Court
 20 then provided Mr. Guzik and Ms. Hanger a short period of time to call and see whether Defendant
 21 could increase its settlement authority. At this point, the settlement conference had already been
 22 going on for two hours. When Defendant was unable to increase its authority, the parties were at
 23 an impasse and the settlement conference ended.

24 III. ANALYSIS

25 In responding to the order to show cause, Defendant contends that an imposition of
 26 sanctions against Defendant and defense counsel would be inappropriate because the language in
 27 the Court’s scheduling conference order is ambiguous and they complied in good faith on a
 28 misinterpretation of the language. Docket No. 27 at 2.

1 Mr. Guzik argues primarily that his appearance at the settlement conference with a
2 representative having only \$200,000 in settlement authority was justified because the Court's
3 scheduling conference order requiring authority of "either the full amount of the claim or the last
4 demand made" could be understood in multiple ways. Docket No. 27 at 3. Defendant submits
5 that no settlement demands were made prior to the settlement conference and, therefore, it
6 determined its settlement authority based on the full amount of the claim. *Id.* Defendant submits
7 that defense counsel's understanding was that the full amount of the claim was and remains to be
8 in dispute and that Defendant only needed to bring a representative with settlement authority
9 consistent with its evaluation of the claim. *Id.* Defendant submits that it understood this
10 determination as complying with the Court's settlement conference order and, further, that it would
11 be impractical for it to bring settlement authority above that valuation as the amount of the claim
12 was unspecified prior to the settlement conference. *Id.*

13 Defendant's arguments about its understanding of the meaning of "the full amount of the
14 claim" are without merit. The Court fails to see any reasonable interpretation of the term "up to
15 the full amount of the claim" to mean a party's own valuation of the claim. To allow that
16 interpretation would defeat the point of having a settlement conference at all. *See, e.g., Wilson,*
17 *2013 WL 836995, at *5.*

18 Moreover, the Court finds that Defendant's representations about the full amount of the
19 claims being unspecified prior to the settlement conference are without merit. The parties' main
20 contentions in their briefing centered around the damages calculations Plaintiff provided to
21 Defendant and Defendant's expert's significantly lower valuation of the damages. Moreover, this
22 information was shared with Defendant in Plaintiff's initial disclosures. *See Fed. R. Civ. P.*
23 *26(a)(1)(A)(iii).* Defendant was well aware of Plaintiff's valuation of the case at least one week
24 prior to the settlement conference when it submitted its briefing for the settlement conference.
25 Any representation to the Court that Defendant was unaware of Plaintiff's valuation of damages
26 rings hollow.

27 Finally, Defendant's submission that good faith reliance on a misinterpretation should
28 excuse it and defense counsel's behavior is incorrect. Bad faith is not required for the Court to

1 find that sanctions are warranted pursuant to Rule 16. *See, e.g., Ayers*, 895 F.2d at 1270. While
2 Defendant and defense counsel may have not intentionally disregarded the Court's order, they
3 nonetheless violated the Court's clear attendance requirements. This violation caused a significant
4 waste of time and resources on the part of the Court and the other participants in the settlement
5 conference.

6 IV. SANCTIONS

7 Having reviewed this matter, the Court finds that Defendant and Mr. Guzik's explanations
8 fail to justify their non-compliance with this Court's clear order. Their failure to abide by the order
9 has both disrupted this Court's management of its docket and resulted in additional expense in the
10 administration of this case. *See Sanders v. Union Pacific R.R. Co.*, 154 F.3d 1037, 1041 (9th Cir.
11 1988). Therefore, sanctions are appropriate as a means of deterring the neglect of Defendant and
12 Mr. Guzik's Rule 16 obligations.

13 The Court has broad discretion in fashioning appropriate sanctions for violation of a court
14 order. *See Wilson*, 2013 WL 836995 (citing *Official Airline Guides, Inc.*, 5 F.3d at 1396)). In
15 determining the appropriate sanction, the Court notes that a primary objective of Rule 16(f) is the
16 deterrence of conduct that unnecessarily consumes the Court's time and resources that could have
17 been more productively used by litigants willing to follow the Court's order. *Martin Family Trust*,
18 186 F.R.D. at 603. Therefore, the Court also considers the resources wasted by the parties due to
19 the violation of the Court's order. *See* Rule 16(f)(2).

20 V. CONCLUSION

21 For the reasons discussed above, the Court hereby **SANCTIONS** Mr. Guzik and
22 Defendant, jointly and severally, in the amount of 40% of Plaintiff's reasonable attorneys' fees
23 and costs incurred in preparing for and attending the settlement conference.

24 Defendant and Mr. Guzik must immediately meet and confer with Plaintiff regarding the
25 reasonable attorneys' fees and costs due to their failure to comply with the Court's order. If the
26 parties come to an agreement, they must file notice with the Court, so stating, no later than May
27 11, 2022. To the extent that the parties are not able to agree on the amount of those fees and costs,
28 Plaintiff must file full documentation of the attorneys' fees and costs incurred in preparing for and

1 attending the settlement conference, no later than May 16, 2022. Defendant may respond to
2 Plaintiff's filing, no later than May 20, 2022.

3 IT IS SO ORDERED.

4 Dated: May 3, 2022

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Nancy J. Koppe
United States Magistrate Judge
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